

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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MICHAEL T. MCLAUGHLIN,

Case No. 2:14-cv-00178-APG-PAL

Plaintiff,

ORDER DISMISSING DEFENDANT CHERYL DRESSLER

v.

JAMES G. COX, *et al.*,

Defendants.

10 Plaintiff Michael T. McLaughlin is an inmate at Southern Desert Correctional Center
11 (“SDCC”). McLaughlin asserted two claims. First, he alleged defendants James Cox, Brian
12 Williams, Cory Newton, Gustavo Sanchez, and Karly McCormack violated his First Amendment
13 rights when they moved him to more restrictive housing in retaliation for him seeking to re-open
14 a case in state court and for filing a notice of appeal in another case in federal court. Second, he
15 alleged defendant doctors Romeo Aranas, Francisco Sanchez, and Cheryl Dressler were
16 deliberately indifferent to his back pain.

17 McLaughlin never served defendant Dressler. Accordingly, on August 25, 2016, the clerk
18 of court filed a notice pursuant to Federal Rule of Civil Procedure 4(m) that although the
19 complaint had been filed in October 2014, no proof of service had been filed as to Dressler. ECF
20 No. 91. The clerk of court thus notified McLaughlin that this action would be dismissed as to
21 Dressler if McLaughlin did not file proof of service by September 24, 2016. *Id.*

22 In response, McLaughlin argues that he does not understand why the Marshal cannot
23 effectuate service on Dressler and that he never received notice regarding a lack of service until
24 August 2016. He thus requests that the Marshal effectuate service or that service be waived. ECF
25 No. 92.

McLaughlin did not timely serve Dressler nor has he explained why for nearly two years he has failed to prosecute this action against Dressler. Any service now would be untimely.

1 Moreover, allowing McLaughlin more time to serve Dressler would be a waste of judicial
2 resources. As I explained in a prior order, McLaughlin's Eighth Amendment deliberate
3 indifference claim fails on the merits. ECF No. 94 at 5-6.

4 IT IS THEREFORE ORDERED that **defendant Cheryl Dressler is DISMISSED**
5 **without prejudice** for failure to timely serve her with process.

6 DATED this 6th day of October, 2016.

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8 ANDREW P. GORDON
9 UNITED STATES DISTRICT JUDGE
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